

## SENTENCE DATA SHEET

**DEFENDANT:** Panalpina, Inc. ("Panalpina Inc.")

**CRIMINAL NO:** 10-CR-765

**GUILTY PLEA:** Count One (1): 18 U.S.C. § 371 (Conspiracy)

Count Two (2): 15 U.S.C. §§ 78m(b)(2)(a), 78m(b)(5) and 78ff(a) and  
18 U.S.C. § 2 (Aiding and Abetting the Creation of  
False Books and Records)

### SUBSTANCE OF PLEA AGREEMENT:

Pursuant to Rule 11 (c)(1)(C), the defendant will plead to Count One and Count Two of the Criminal Information. If the defendant persists in its plea, the United States agrees to:

(1) recommend a reduction of the corporation's culpability score due to its voluntary disclosure, cooperation, and acceptance of responsibility pursuant to United States Sentencing Guidelines (USSG) Section 8C2.5(g)(1); and

(2) recommend a fine of \$70,560,000 pursuant to the USSG Section 8C4.1 that is below the bottom of the guidelines based on Panalpina, Inc.'s exemplary cooperation and "substantial assistance in the prosecution of another organization."

In exchange, the defendant agrees to:

- (1) recommend and pay a fine of \$70,560,000;
- (2) adhere to enhanced compliance obligations;
- (3) cooperate fully with the government; and
- (4) waive its appellate rights.

**COUNT ONE:** Conspiracy, 18 U.S.C. § 371

**ELEMENTS:** First: That the defendant and at least one other person made an agreement to commit the crime of violating the books and records provision of the Foreign Corrupt Practices Act, as charged in the Criminal Information;

Second: That the defendant knew the unlawful purpose of the agreement;

Third: That the defendant joined in the agreement willfully, that is, with the intent to further its unlawful purpose; and

Fourth: That one of the conspirators during the existence of the conspiracy knowingly committed at least one of the overt acts described in the

Criminal Information in order to accomplish some object or purpose of the conspiracy.

**PENALTY:** A maximum of \$500,000, or twice the pecuniary gain to the defendant or loss to the victims

**SENTENCING  
GUIDELINES:** Advisory

**PROBATION:** A maximum of five years

**SPECIAL  
ASSESSMENT (TAX):** \$400

**COUNT TWO:** Aiding and Abetting the Creation of False Books and Records,  
15 U.S.C. §§ 78m(b)(2)(a), 78m(b)(5) and 78ff(a) and 18 U.S.C. § 2

**ELEMENTS:** *False Books and Records:*

First, that a company was an issuer that was required to file reports under federal law and to keep accurate books, records and accounts.

Second, that the issuer, or an officer, director or employee of the issuer, knowingly falsified its books, records and accounts.

*Aiding and Abetting:*

First, that the offense of violating the books and records provision of the FCPA was committed by some person;

Second, that the defendant associated with the criminal venture;

Third, that the defendant purposefully participated in the criminal venture;  
and

Fourth, that the defendant sought by action to make that venture successful.

**PENALTY:** A maximum of \$25,000,000 or twice any pecuniary gain to the defendant or loss to the victims

**SENTENCING  
GUIDELINES:** Advisory

**PROBATION:** A maximum of five years

**SPECIAL  
ASSESSMENT (TAX): \$400**

By: Stacey K. Luck

Stacey K. Luck  
Senior Trial Attorney

Adam G. Safwat  
Assistant Chief

Fraud Section, Criminal Div.  
U.S. Department of Justice  
1400 New York Ave., NW  
Washington, DC 20005  
(202) 514-5650